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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,845	01/11/2001	John G. Spakousky	6739	9792

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MINNEAPOLIS, MN 55402-1498

EXAMINER

A, PHI DIEU TRAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/758,845

**Applicant(s)**

SPAKOUSKY, JOHN G.

**Examiner**

Phi D A

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 54-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 54-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nehring (5570552) in view of Smith (4982544).

Nehring shows a discrete pre-assembled composite block for independent placement with other laterally and vertically adjacent blocks to form a wall structure of stacked block courses, the block comprising an outer wall (22), an inner wall (24), at least one of the walls being made from a first material and is vertical load bearing such that the wall can support loads superimposed on the wall structure in addition to loads imposed by higher block courses (inherently so as shown in figure 4 where lateral forces exert on the blocks), a connective structure (42) formed of a second material different from the first material and connected between the outer wall and the inner wall, the connective structure comprising connective struts extending between and being connected to both the outer wall and the inner wall such that the walls are securely positioned with respect to one another as opposite faces of a discrete rectangular block, the struts each comprising a wall connector (20) at each end of the struts to connect the strut to the outer wall and the inner wall, the connective structure being free of direct structural connection to the wall of any other adjacent block when the block is in a wall structure (figures 1, 4 shows the strut 20 sitting in the middle of the panel and is thus free of contact with the wall of other blocks), at least one wall connector having an elongated connector (parts 68, 52

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and the outer solid part) for insertion in an elongated groove in one of the outer and inner wall, the elongated groove extending substantially vertically when the block is in a substantially horizontal course of blocks in a wall structure, the strut comprising a first member (the solid part), a second member (68) joined substantially at right angles to form an elongated strut, a third member (52) together with the first and second members forming a channel shaped cross section (the opening between the parts), at least one of the struts being formed from one or more of the group consisting of a plastic, metal, or a metal alloy, the connective structure being low energy conductance (plastic), at least one connective strut further comprises at least one recess for receiving a structural enhancement (46).

Nehring does not show the walls being formed of a masonry-type material.

Smith discloses using masonry-type material walls (13d, 26a, 14a) for discrete blocks to form strong supporting structures.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Nehring's structure to show the walls being of a masonry-type material because it would strengthen the blocks to form strong supporting structures as taught by Smith.

3. Claims 54-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nehring (5570552) in view of Smith (4982544) as applied to claim 1 above and further in view of Een (2399666).

Nehring as modified shows all the claimed limitations except for the block comprising a partitioning panel component mounted on and cooperating with the connective structure and at preassembly placed in parallel spaced relation with the outer wall, the panel being placed closely adjacent to the outer wall so as to define a weep gap between the panel and the outer wall, the

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panel being an insulating panel, the weep gap extending substantially the full width of the outer wall.

Een shows a structure having a partitioning panel component (8) mounted on and cooperating with the connective structure (3) and at preassembly placed in parallel spaced relation with the outer wall(2), the panel being placed closely adjacent to the outer wall so as to define a weep gap(the unoccupied space formed by the hooks 14 of the rebars) between the panel and the outer wall, the weep gap extending substantially the full width of the outer wall (the width being the dimension into the paper of figure 6), the panel being an insulating panel.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Nehring's modified structures to show the block comprising a partitioning panel component mounted on and cooperating with the connective structure and at preassembly placed in parallel spaced relation with the outer wall, the panel being placed closely adjacent to the outer wall so as to define a weep gap between the panel and the outer wall, the panel being an insulating panel, the weep gap extending substantially the full width of the outer wall because it would enhance the insulation of the structure as taught by Een.

4. Claims 1-2, 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meendering (6293067) in view of Smith (4982544).

Meendering shows a discrete pre-assembled composite modular block having an outer wall ( 10,12', 12), the blocks forming insulation to the poured concrete when finished, an inner wall ( 12, 12', 10), at least one of walls made from a first material and is vertical load bearing such that the wall can support loads superimposed on the wall structure in addition to loads imposed by higher block courses (inherently, the loads are not yet specified), a connective

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structure (22) made of a second material different from the first material and connected between the outer wall and the inner wall, the connective structure having two or more discrete connective struts, each strut extending between and being connected to both the outer wall and the inner wall, such that the outer wall and the inner wall being securely positioned with respect to one another as opposite faces of a discrete rectangular block, each of the connective struts further comprises a wall connector at each of its ends to connect the strut to the outer wall and the inner wall, wall connector (30) being a compressible V-shaped insert-type connector ( the interior forming a V-shaped ) with legs compressible toward each other for frictional engagement with a groove (26) formed on an inside surface of the outer wall or the inner wall, the V-shaped further comprise at least one rib-like formation (the rib besides part 30') integrally formed on the V-shaped structure to frictionally engage an adjacent wall upon insertion in a groove, the V-shaped structure further comprises at least one compression-limiting projection (the projection at the beginning of the opening of V-shaped) on the interior of the V-shaped structure, at least one connective strut having a wall connector in an elongated groove (26) in each of the inner and outer walls and the strut being positioned substantially flush ( figure 1) with the top of the outer wall and the inner wall.

Meendering does not disclose the walls being made of a masonry-type material.

Smith discloses using masonry-type material walls (13d, 26a, 14a) for discrete blocks to form strong supporting structures.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Nehring's structure to show the walls being of a masonry-type material because it would strengthen the blocks to form strong supporting structures as taught by Smith.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-16, 54-56 have been considered but are moot in view of the new ground(s) of rejection.

With respect to applicant's arguments to Nehring, Meendering and "load bearing", examiner respectfully points out that Nehring or Meendering's structure is load bearing. Nehring' or Meendering's block inherently is capable of supporting loads superimposed on the structure (the nature and magnitude of the load is not yet clear from the claim, the load can be very small). The argument is thus moot.

With respect to Een, examiner respectfully points out that Een is load bearing (the nature and magnitude of the load is not yet clear from the claim, the load can be very small). Een also shows a weep gap as rejected above. Applicant's claim language does not set forth the difference between Een's weep gap and applicant's weep gap either. Een also shows a weep gap extending substantially the full width of the outer wall as pointed out above. The argument is thus moot.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different block designs.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phi Dieu Tran A *PA*

12/23/04



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